



pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires.

Fed. R. Civ. P. 15(a)(1)-(2).

Here, the Court acknowledges the unusual posture for this case. On July 5, 2023, this Court granted a joint motion to consolidate case and ordered the now-consolidated Plaintiffs to file a Consolidated Amended Complaint. (ECF No. 39). On August 21, 2023, Consolidated Plaintiffs filed their Consolidated Amended Complaint. (ECF No. 45). On October 5, 2023, Defendant filed a Motion to Dismiss. (ECF No. 50). On October 26, 2023, 21 days after Defendant filed its motion, Plaintiffs filed a First Consolidated Amended Complaint. (ECF No. 53).

Understandably, there has been some confusion as to whether Plaintiffs' First Amended Consolidated Complaint comports with Rule 15's requirements. Defendant, in addition to filing its Motion to Strike, concurrently filed a Motion to Dismiss. Plaintiffs, in its response to the Motion to Strike, has requested alternative relief to retroactively grant leave to file the First Consolidated Amended Complaint and to move forward with the disposition of Defendant's Motion to Dismiss.

In the interests of judicial efficiency for all, this Court grants retroactive approval for the Plaintiff to file its First Consolidated Amended Complaint, such that the same at ECF No. 53 is presently the operative pleading for the Plaintiff. Therefore, Defendant's Motion to Strike is denied.

Accordingly, Plaintiffs are directed to file their Response to the Defendant's Motion to Dismiss (ECF No. 57) on or before December 20, 2023. Any reply shall be filed on or before January 3, 2023.

SO ORDERED this 6<sup>th</sup> day of December 2023.

A handwritten signature in black ink, appearing to read "Marilyn J. Horan", written over a horizontal line.

Marilyn J. Horan  
United States District Judge

cc: All counsel of record